

1 UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
3 SOUTHERN DIVISION
4
5 KASEY D. ALVES,
6 Plaintiff,
7 VS. CAUSE NO.: 1:06cv912 LG-JMR

8 HARRISON COUNTY MISSISSIPPI, BY AND
9 THROUGH THE BOARD OF SUPERVISORS;
10 HARRISON COUNTY SHERIFF'S DEPARTMENT;
11 SHERIFF GEORGE PAYNE, JR.; AND,
12 HEALTH ASSURANCE, LLC.,

13 Defendants.

14 DEPOSITION

15 OF

16 MARLIN LADNER

17 Taken on behalf of the Plaintiff

18 11:33 a.m., Wednesday, March 12th, 2008

19 before

20 Lisa H. Brown, CSR #1166

21 COAST-WIDE REPORTERS
22 Court Reporters
23 Post Office Box 95
24 Biloxi, Mississippi 39533-0095
25 (228) 374-5066

1 The deposition of MARLIN LADNER, taken on the
2 12th day of March, 2008, commencing at 11:33 a.m., at
3 the offices of the Harrison County Board of
4 Supervisors, 1831 23rd Avenue, in the City of
5 Gulfport, County of Harrison, State of Mississippi,
6 before Lisa Hood Brown, CSR, Freelance Court Reporter
7 and Notary Public within and for the County of
8 Harrison, State of Mississippi.

9 APPEARANCES:

10 WOODROW W. PRINGLE, III, ESQUIRE
11 2217 Pass Road
12 Gulfport, Mississippi 39501
13 Appearing on behalf of the Plaintiff.

14 JON S. TINER, ESQUIRE
15 Dukes, Dukes, Keating & Faneca
16 2909 - 13th Street, Sixth Floor
17 Gulfport, Mississippi 39501
18 Appearing on behalf of the Defendant,
19 Sheriff George Payne, Jr.

20 JOSEPH MEADOWS, ESQUIRE
21 KAREN J. YOUNG, ESQUIRE
22 Meadows Law Firm
23 Post Office Drawer 1076
24 Gulfport, Mississippi 39502
25 Appearing on behalf of the Defendant,
Harrison County Board of Supervisors.

ROBERT H. PEDERSEN, ESQUIRE
Watkins & Eager
400 East Capitol Street
Jackson, Mississippi 39205
Appearing on behalf of the Defendant, Heath
Assurance, LLC.

ALSO PRESENT: Connie Rocko

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1 MARLIN LADNER,
2 having been produced and first duly sworn, was examined
3 and testified as follows:
4 - - -
5 EXAMINATION
6 BY MR. PRINGLE:
7 Q. Please state your name.
8 A. Marlin Ladner.
9 Q. Mr. Ladner, you are currently a member of the
10 Harrison County Board of Supervisors?
11 A. Yes.
12 Q. For what years did you serve as a member of
13 the Board?
14 A. From 2000 to the present.
15 Q. And during your service as a member of the
16 Board, what is the Board's role in the management or
17 the operation of the Harrison County Adult Detention
18 Center?
19 A. The responsibility of the Board is to provide
20 a budget for the operation of the detention center.
21 Q. Does the Board have any other role in the
22 management of the detention center?
23 A. No, sir.
24 Q. I show you Exhibit 1, which is a January 12,
25 1995 Consent Judgment entered in United States District

EXHIBIT

tabbles

C

1 Court, and ask you to take a look at that.
 2 A. Yes, sir.
 3 Q. Have you ever seen it?
 4 A. Yes, sir.
 5 Q. Have you had a chance to read it?
 6 A. I have.
 7 Q. What steps does the Board take to ensure
 8 compliance with this judgment?
 9 A. The steps that the Board takes is to provide
 10 funding to meet any fiduciary needs to comply with that
 11 judgment.
 12 Q. And how does the Board monitor compliance
 13 with the judgment?
 14 A. Well, we've asked on several occasions. I
 15 think if you review the minutes, you can see where
 16 we've asked specifically in reference to the number of
 17 jail guards that have been hired. We have also
 18 provided appropriations, budgetary appropriations, to
 19 hire the required number of jail guards.
 20 Q. Does Harrison County have any other
 21 responsibility under this Consent Judgment, other than
 22 to provide funds for staffing at the jail?
 23 A. I don't know what other responsibilities,
 24 other than to expect the sheriff to accomplish and to
 25 provide those requirements.

1 A. I'm looking at the minutes from the Board of
 2 Supervisor's meeting, dated 8/2nd/2004.
 3 Q. What does that minute entry say?
 4 A. Pardon me?
 5 Q. What does that minute entry say that you're
 6 looking at?
 7 A. "Supervisor Martin inquired about monthly
 8 report from the sheriff's department on training of
 9 new jailers. Mr. Robert Parker stated that it takes a
 10 few days after the first of the month to generate this
 11 report. It should be available at the next Board
 12 meeting."
 13 MR. TINER: What date was that? I'm sorry.
 14 THE WITNESS: I'm sorry. It's on
 15 8/2nd/2004.
 16 BY MR. PRINGLE:
 17 Q. But as a member of the Board, you don't ever
 18 remember seeing one of those reports?
 19 A. I can't recall. I can't recall that I did or
 20 didn't. I'm sure I did, but I don't recall exactly
 21 what the reports were, no, sir.
 22 Q. Okay. I show you Exhibit 2. If you can
 23 hand me Exhibit 1, please.
 24 A. Okay.
 25 (Also present person back.)

1 Q. Look at page sixteen of the judgment.
 2 A. Okay.
 3 Q. Paragraph forty, do you see that?
 4 A. Yes, sir.
 5 Q. Have you ever had an opportunity to review
 6 these status reports that are submitted to the court?
 7 A. We have asked on occasions to -- specifically
 8 in reference to the number of guards that have been
 9 hired.
 10 Q. So have you had a chance to look at the
 11 reports?
 12 A. We had difficulty in getting them. I think
 13 we have had at one time, and the information that we've
 14 gotten is the difficulty in -- from the sheriff was the
 15 hiring and maintaining those folks.
 16 Q. Okay. And I don't mean to keep repeating,
 17 but I don't know if you've answered my question yet.
 18 Have you had a chance to read any of those quarterly
 19 reports?
 20 A. I don't recall seeing or reading those
 21 quarterly reports.
 22 Q. Okay. Thank you.
 23 THE WITNESS: Pardon me? Yeah.
 24 BY MR. PRINGLE:
 25 Q. What are you looking at?

1 BY MR. PRINGLE:
 2 Q. Prior to today, have you seen that report?
 3 A. I don't recall. I cannot recall. There's so
 4 much information going. I don't recall if I have or
 5 have not.
 6 Q. Do you know a man by the name of John Alese,
 7 A-L-E-S-E?
 8 A. No, sir.
 9 Q. So you don't recall whether or not you ever
 10 saw this report?
 11 A. I cannot recall. I do not recall seeing
 12 that.
 13 Q. Okay. Just look at a few of the pages to see
 14 if it helps refresh your memory.
 15 Turn to page two, the second paragraph.
 16 "Detention staff does not uniformly receive pre-service
 17 training and annual in-service programs are not
 18 regularly provided. The majority of training is
 19 currently on-the-job."
 20 Do you ever remember reading that finding?
 21 A. No, sir.
 22 Q. Last paragraph, page two. "The morale of the
 23 staff is extremely low. Staff claimed they are
 24 overworked."
 25 Do you ever remember reading that finding?

1 A. I don't remember reading it, but I do recall
2 in conversations that being talked about.
3 Q. And who do you remember having conversations
4 with?
5 A. I'm talking about in general meetings with
6 the -- you know, jail house meetings.
7 Q. In the Board meetings?
8 A. Yeah, because we talked about, of course,
9 giving pay raises to the corrections officers, and
10 much of the discussion was about the corrections
11 officers and their morale. And that's why we
12 instituted pay raises for them.
13 Q. Go to page three. Don Cabana, at some point,
14 became warden of the Harrison County Jail. Do you
15 recall that?
16 A. Yes, sir.
17 Q. And after Dr. Cabana became the warden, did
18 he begin appearing at the Board meetings?
19 A. Yes, sir.
20 Q. And were there times that you had executive
21 sessions with Dr. Cabana?
22 A. Yes, sir.
23 Q. Do you recall what was discussed with
24 Dr. Cabana during those executive sessions?
25 A. We were discussing the conditions of the

1 Jail, primarily the locking system, but other
2 conditions, as well, for example, security, et cetera.
3 Q. Okay.
4 A. And --
5 Q. Go ahead. I'm sorry.
6 A. The general condition of the Jail, as well as
7 specifically the locking facility.
8 Q. Do you remember having any discussions with
9 Dr. Cabana concerning alleged violence in the booking
10 area?
11 A. Other than general -- no. General
12 discussions about what had occurred.
13 Q. Do you recall any specifics of what he told
14 you had occurred?
15 A. Not any specifics, other than that, you know,
16 it had occurred.
17 Q. Page three. The middle of the page -- of
18 the first paragraph. It says, "Dr. Cabana stated that
19 there were approximately fifty-seven staff
20 vacancies."
21 Do you see that?
22 A. On page three?
23 Q. Yes, sir, on page three, the first paragraph.
24 A. Oh, I'm sorry. I was looking at the middle.
25 Oh. Yes, I see that.

1 Q. Do you remember Dr. Cabana reporting that?
2 A. Yes.
3 Q. And has any action been taken to alleviate
4 that problem?
5 A. There were some discussions about -- I think
6 they went on TV to, you know, advertise Jail vacancies,
7 correctional officer vacancies. We talked about that,
8 trying to get personnel.
9 Q. The bottom of the page, page three. It
10 says, "Due to inadequate staffing levels,
11 poorly-trained staff, limited supervision, crowded
12 conditions, failure to follow established policy and
13 procedures, inadequate classification options and an
14 intake/release process that is inefficient and
15 ineffective, the Harrison County Adult Detention
16 Center is neither safe nor is it secure."
17 Do you remember that finding?
18 A. I do know that those issues were discussed,
19 yes.
20 Q. They were discussed by the Board, or who did
21 you discuss it with?
22 A. Well, it was discussed on ongoing occasions
23 as far as referencing the number of people available at
24 the Jail to provide, you know, oversight, correctional
25 oversight, and the difficulties there were to hire and

1 keep those folks.
2 Q. Page four, about the third paragraph down,
3 it says, dash, and then it says, "Staff should be held
4 accountable." Do you see that?
5 A. Yes, sir.
6 Q. And go to the last sentence of that
7 paragraph. "According to staff and Dr. Cabana, there
8 has been a pattern of allowing personnel to resign in
9 lieu of disciplinary action being taken."
10 Were you aware of that finding?
11 A. No, I wasn't.
12 Q. Have you had any discussions with Dr. Cabana
13 about that?
14 A. Not in reference to "in lieu of disciplinary
15 action being taken." The only thing that I recall is
16 that we were having difficulty getting and maintaining
17 corrections officers.
18 Q. Did Dr. Cabana tell you why it was difficult
19 to retain corrections officers?
20 A. Well, in general, the pay was part of it;
21 the working conditions were part of it; just a
22 difficult situation in getting those folks.
23 Q. Go to page six, the last paragraph. It says,
24 "Dr. Cabana has instituted numerous changes in the
25 booking area."

PAGE 13 SHEET 4

13

1 Do you see that?

2 A. Yes, sir.

3 Q. Did Dr. Cabana ever tell you what those
4 changes have been?

5 A. I specifically recall that, of course, the
6 chair that was used -- what did they call it?

7 MR. MEADOWS: Restraint.

8 A. Restraint chair. I know he disbanded the use
9 of the restraint chair. He indicated that to us.

10 BY MR. PRINGLE:

11 Q. Do you recall any others, any other
12 specifics?

13 A. I can't recall any other specifics.

14 Q. Do you keep any independent notes of what
15 happens during Board meetings or executive sessions?

16 A. No, sir.

17 Q. Look at page eight. It's actually paragraph
18 -- it's numbered paragraph one at the top. Do you see
19 that?

20 A. Yes, sir.

21 Q. It says, "An overall concern by Captain
22 Rodgers that, overall, policy and procedures were not
23 being adhered to in the intake area." Were you aware
24 of that?

25 A. No, sir.

PAGE 15

15

1 Q. Do you recall seeing any of those previous
2 six reports?

3 A. I don't recall the reports, but I do know we
4 were having difficulties -- that we were informed that
5 there were difficulties with staffing at the Jail. And
6 that's why we specifically appropriated the funds to
7 make sure that we meet that number. As far as, you
8 know, actually seeing the report, I don't recall.

9 Q. You don't recall specifically seeing this
10 report, either?

11 A. No, sir. This was -- no, sir, I don't.

12 Q. Go to page seven. In the middle of the page
13 there's a number one. It says, Staff Use of Force."
14 Do you see that?

15 A. Right. Yes.

16 Q. The second sentence. "As aforementioned,
17 there were thirty-one incidents of force in December
18 2004, which represents a serious increase in the use of
19 force at the HCDC. In reviewing the use of force
20 incident packages for November/December 2004, a very
21 disturbing pattern of misuse of force is evident."

22 Do you remember seeing that?

23 A. No, sir.

24 Q. Do you remember anybody reporting this
25 information to you?

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14

1 Q. Have you ever met with Captain Rodgers?

2 A. Never have.

3 Q. Do you know who he is?

4 A. No, sir.

5 Q. Do you know what his job is at the Jail?

6 A. No, sir, I do not know Captain Rodgers or am
7 I familiar with his job requirements.

8 Q. All right. Hand me that one, and I'll hand
9 you Exhibit 3.

10 A. Okay.

11 Q. That purports to be a report by Steve Martin
12 prepared for the U.S. Department of Justice, dated
13 February 1, 2005. Do you recall ever seeing that
14 report?

15 A. Again, I can't say yes or no. I don't
16 recall. I possibly could have.

17 Q. Let's just look at parts of it and see if you
18 recall any of it. Go to page one.

19 A. Okay.

20 Q. Look at the top, the first paragraph, the
21 second sentence. "The six previous reports have
22 detailed numerous, serious and persistent problems
23 related to overcrowding, staffing and security."

24 Do you see that?

25 A. Yes, sir.

PAGE 16

16

1 A. The only thing that I recall is that, on
2 occasions, we would receive -- I would receive, as an
3 individual Board member, copies of complaints made by
4 various inmates at the Jail. And the general rule was
5 to first relay it to Mr. Meadows, those things, and
6 make sure that he had copies, as well as the district
7 attorney. I know we had one specific Board member that
8 would -- I knew was relaying those copies to the
9 district attorney.

10 Q. And who would give you copies of the
11 complaints?

12 A. They would come through the mail.

13 Q. The mail?

14 A. I presume so, the mail.

15 Q. And once you got copies of those complaints,
16 you would give them to -- you would give a copy to
17 Mr. Meadows and a copy to the DA?

18 A. I would make sure that a copy -- they would
19 usually indicate on there where those copies went to.
20 And then I know that one specific Board member, in
21 talking about those things, was sending that to the
22 district attorney, yes, sir, seeing that he got those
23 reports.

24 Q. Who was that Board member?

25 A. Connie Rockco.

1 Q. And what did you do with your copy of the
2 complaints that you received?

3 A. I probably, to be honest with you, tossed
4 them away, once I knew that they were with the
5 appropriate personnel.

6 Q. While you've been on the Board, has there
7 been any discussions about privatizing the Jail?

8 A. Yes, sir.

9 Q. You came on to the Board in the calendar year
10 2000?

11 A. Yes, sir, January 2000.

12 Q. And since 2000, when is the first time that
13 you recall having any discussions about privatizing the
14 Jail?

15 A. Oh, Lord. I can't remember any specific
16 dates, but I do know that it really became an issue
17 after the death of Mr. Williams, and there could have
18 been previous discussions of that. I do not recall any
19 specific dates.

20 Q. But as far as seeking legislation to try to
21 privatize the Jail, the first time would have been
22 after Mr. Williams' death?

23 A. I believe so, yes, sir.

24 Q. It's my understanding that the sheriff would
25 not agree to it; is that correct?

1 appear before the Board?

2 A. Yes.

3 Q. And did the sheriff ever appear when he was
4 requested to come before the Board?

5 A. No, sir, that I recall.

6 Q. Were there any specific issues that the Board
7 wished to discuss with the sheriff?

8 A. Well, primarily budget issues and -- that was
9 basically our responsibility, so we were wanting to
10 talk to him in reference to the budget and needs of the
11 sheriff's department overall.

12 Q. Was there ever any one particular individual
13 that the sheriff would rely on to come before the
14 Board?

15 A. We primarily dealt with Robert Parker.

16 Q. Look on page eight and nine of that exhibit.
17 These are specific instances of alleged use of force on
18 inmates at the Jail. Do you recall ever reviewing
19 these incidents?

20 A. I do not recall in this report. However,
21 like I said, I recall incidents of coming before us,
22 either through the mail, and I do know on one occasion
23 we had some folks who complained that came directly to
24 a Board meeting.

25 Q. Do you happen to recall what their complaints

1 A. That's -- yes.

2 Q. Do you know why he wouldn't agree?

3 A. I have no idea and I've never talked to him
4 about it, ever.

5 Q. Were you given any information as to why he
6 wouldn't agree?

7 A. No, sir.

8 Q. Since you've served on the Board since 2000,
9 has Sheriff Payne ever appeared before the Board?

10 A. Yes, he has.

11 Q. Have you had a chance to ever talk to
12 Sheriff Payne in executive session?

13 A. Gosh, I don't recall. I do know -- I do
14 recall him appearing before the Board, if my
15 recollection serves me correctly, three times.

16 MR. MEADOWS: Over what period?

17 A. Over the period of eight years that I've been
18 on the Board. And I do think we did have an executive
19 session at one of those times.

20 BY MR. PRINGLE:

21 Q. Do you recall what the --

22 A. I basically recall it being in reference to
23 Jail certification, if I'm correct -- if I recall
24 correctly.

25 Q. Did the Board ever request that the sheriff

1 were, the individuals who appeared before the Board?

2 A. The gentleman that came before the Board was
3 complaining about the treatment of his wife.

4 Q. Do you recall his last name being Wynn,
5 W-Y-N-N?

6 A. Yes, sir.

7 Q. And do you recall what, if any, response the
8 Board made after hearing that complaint?

9 A. After hearing that complaint, we also heard
10 from the sheriff's department, the internal affairs
11 officer, who reported his version of the incident and
12 what his investigation revealed.

13 Q. Do you know who the officer was?

14 A. Campbell, I believe. Officer Campbell.

15 Q. Steve Campbell?

16 A. Steve Campbell.

17 Q. After hearing from Mr. Campbell, what, if
18 anything, did the Board do after that?

19 A. The Board took no action other than to ask
20 the sheriff's department to investigate it and look
21 into it.

22 Q. I'll swap exhibits with you and show you
23 Exhibit 4.

24 A. Okay.

25 Q. Do you know what the Harrison County Criminal

1 Justice Coordinating Council is?

2 A. No, I don't. I can't say I do. I know that
3 the sheriff did create an advisory council, and I
4 don't know if that's it or not.

5 Q. The advisory council that was -- whether it
6 was this one or another one, do you know why that one
7 was created?

8 A. My understanding was simply to be an advisory
9 Board, I presume. I never was involved in it, and I do
10 not know exactly what their mission was.

11 Q. So you never attended their meetings or had
12 any knowledge concerning what they did?

13 A. No, sir.

14 Q. Whether it was this council or another
15 advisory committee; right?

16 A. Yeah. I'm not sure this is exactly what that
17 particular council that I'm aware of is called.

18 Q. And you have no personal knowledge about the
19 Harrison County Criminal Justice Coordinating Council?

20 A. No, sir.

21 Q. Do you recall seeing a July 20, 2005 letter
22 from the Department of Justice concerning conditions at
23 the jail? Specifically, it was complaining about
24 instances of misuse of force and health and safety
25 issues at the jail. Do you recall that letter?

1 A. I don't recall the specific letter. I do
2 recall some of the issues, and I think there was some
3 fire safety issues. If I recall correctly, we got some
4 information on that.

5 Q. Do you recall that letter setting forth that
6 there were issues about misuse of force at the jail?

7 A. I don't recall that specifically, no, sir.

8 Q. And do you recall that that letter also said
9 there were instances of misuse of force not being
10 reviewed and investigated?

11 A. No, I do not recall that.

12 Q. Are you aware that the sheriff's department
13 holds Civil Service or administrative hearings
14 concerning misconduct of -- alleged misconduct of
15 officers at the jail?

16 A. Yes, sir. I'm aware of the Civil Service
17 applicable to the sheriff's department.

18 Q. Have you had an opportunity to review any of
19 the findings of the Civil Service Commission concerning
20 alleged conduct --

21 A. No, sir, I have not.

22 Q. Are you aware that there is an inmate
23 grievance procedure that can be followed for inmates to
24 file grievances concerning their treatment at the jail?

25 A. I am aware of that -- a procedure, yes, sir.

1 Q. Have you ever reviewed any of the inmate
2 grievances?

3 A. I have not reviewed any of the in- -- well, I
4 can't say. I think some of that information -- that's
5 what I'm talking about, these letters coming to me that
6 somebody would complain and I'd read those complaints.

7 Q. Let me rephrase the question. Other than the
8 letters you received in the mail, have you reviewed any
9 of the inmate grievances?

10 A. No, sir. No, sir.

11 Q. Have you ever reviewed the sheriff's
12 department policies and procedures?

13 A. No, sir.

14 Q. Ever reviewed the sheriff's department
15 general orders?

16 A. No, sir.

17 Q. Do you know what training the sheriff uses to
18 train correctional officers at the jail?

19 A. No. I'm not specifically aware of the
20 specific training, other than that they've received
21 training.

22 Q. But you have no knowledge of what the
23 training is?

24 A. No, sir.

25 Q. Are you aware that the jail has a system to

1 video record the activities in the booking area?

2 A. Yes, sir.

3 Q. Have you ever had an opportunity to review
4 any of those videos?

5 A. No, sir, other than the video in reference to
6 Williams later on. Much later on.

7 Q. So the incident concerning Jessie Williams is
8 the only video you've ever reviewed from the booking
9 area?

10 A. That's correct.

11 Q. Have you requested an opportunity to review
12 any of the other videos?

13 A. No, sir.

14 MR. PRINGLE: That's all I have. Thank you,
15 sir.

16 - - -

17 (Witness excused.)

18 (The deposition was concluded at 12:01 p.m.)

19 - - -

1 CERTIFICATE

2 STATE OF MISSISSIPPI

3 COUNTY OF HARRISON

4 I, Lisa Hood Brown, Freelance Court Reporter
 5 and Notary Public, duly commissioned for the County
 6 of Harrison, State of Mississippi, do hereby certify:

7 That on the 12th day of March, 2008, there
 8 appeared before me MARLIN LADNER, who was sworn and
 9 examined to tell the truth, and that the preceding
 10 twenty-four (24) typewritten pages contain a full,
 11 true and correct copy of my stenotype notes and/or
 12 electronic tape recording of the testimony of MARLIN
 13 LADNER.

14 That the witness has chosen to reserve
 15 reading and signing of the deposition.

16 That I am not related to or in anywise
 17 associated with any of the parties to this cause of
 18 action, or their counsel, and that I am not
 19 financially interested in the same;

20 IN WITNESS WHEREOF, I have hereunto set my
 21 hand, this 31st day of March, 2008.

22

23

24

25

Lisa Hood Brown, CSR No. 1166
 Notary Public, State of Mississippi,
 County of Harrison. My commission
 expires 2-5-10.

1 E R R A T A S H E E T

2 STATE OF MISSISSIPPI

3 COUNTY OF _____

4 I, MARLIN LADNER, the undersigned Deponent,
 5 having read the foregoing deposition, pages numbered 4
 6 through 24, find the same to be a true and correct
 7 transcription of the proceedings taken at the time and
 8 place indicated therein, except as follows, (if any):

9 PAGE	LINE	WHERE IT READS:	SHOULD READ:
10	_____	_____	_____
11	_____	_____	_____
12	_____	_____	_____
13	_____	_____	_____
14	_____	_____	_____
15	_____	_____	_____
16	_____	_____	_____
17	_____	_____	_____
18	_____	_____	_____

19

20

MARLIN LADNER

21 Sworn to and subscribed
 22 by me, this _____ day of
 _____, A.D., 2008.

23

24

25

Notary Public, State of Mississippi,
 County of _____
 My commission expires: _____